

1 Veronica Arechederra Hall, Bar No. 5855
2 veronica.hall@jacksonlewis.com
3 JACKSON LEWIS P.C.
4 3800 Howard Hughes Parkway, Suite 600
5 Las Vegas, Nevada 89169
6 Tel: (702) 921-2460
7 Fax: (702) 921-2461

8 Erik M. Dullea (*admitted pro hac vice*)
9 erik.dullea@jacksonlewis.com
10 JACKSON LEWIS P.C.
11 950 17th Street, Suite 2600
12 Denver, Colorado 80802
13 Tel: (303) 892-0404
14 Fax: (303) 892-5575

15 *Attorneys for Defendants*

16 **UNITED STATES DISTRICT COURT**

17 **DISTRICT OF NEVADA**

18 Case No. 2:15-cv-2306-JAD-PAL

19 JASON KINZER, an individual,

20 Plaintiff,

21 v.

22 ALLEGIANT AIR, LLC, a Nevada limited
23 liability company; and ALLEGIANT TRAVEL
24 CO. a Nevada corporation,

25 Defendants.

26 **DEFENDANTS' MOTION TO EXTEND
DISCOVERY**

27 **(FIRST REQUEST)**

28 Defendants ALLEGIANT AIR, LLC and ALLEGIANT TRAVEL CO. (collectively
"Defendants"), by and through their attorneys, Jackson Lewis P.C., hereby submit the instant
Motion to Extend certain discovery deadlines pursuant to Fed.R.Civ.P. 6, Fed.R.Civ.P. 16, LR IA
6-1, LR 26-4 and LR 26-7.

///

///

///

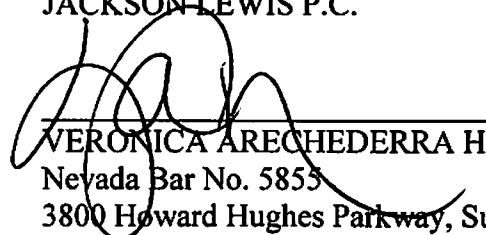
///

///

1 This Motion is based on the following Memorandum of Points and Authorities, the
 2 Declaration of Counsel attached hereto as **Exhibit A**, all pleadings and documents on file with the
 3 Court, and any argument that the Court deems proper.

4 DATED this 12 day of May, 2016.

JACKSON LEWIS P.C.

5
 6 
 7 VERONICA ARECHEDERRA HALL, ESQ.
 8 Nevada Bar No. 5855
 3800 Howard Hughes Parkway, Suite 600
 Las Vegas, Nevada 89169

9
 10 ERIK M. DULLEA, ESQ.
 11 *Admitted Pro Hac Vice*
 950 17th Street, Suite 2600
 12 Denver, Colorado 80201
Attorneys for Defendants

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I. BACKGROUND**

15 This case arises out of Plaintiff's employment with Defendant Allegiant Air, LLC
 16 ("Allegiant") as a Captain (pilot). Plaintiff's employment was terminated as a result of an accident
 17 that occurred on June 8, 2015, and the events that occurred thereafter relating to the accident. On
 18 that day, Plaintiff was the Captain of Flight 864 with scheduled service from St. Petersburg,
 19 Florida to Hagerstown, Maryland. Shortly after takeoff, one of the Flight Attendants reported
 20 smelling a burning rubber odor in the cabin. Plaintiff made the decision to return to St. Petersburg
 21 and, once on the ground, ordered the evacuation of the aircraft. Notably, there was no smoke in
 22 the cabin and the flight attendants did not observe any passenger reaction to the smell (which
 23 dissipated while in flight and was communicated to the pilots). During the evacuation, seven
 24 individuals were allegedly injured, one of them seriously.

25 An investigation into the accident concluded that the evacuation was unwarranted and that
 26 Plaintiff's actions put the safety of his passengers and crew in jeopardy. When faced with the
 27 evidence, findings and conclusions, Plaintiff refused to accept responsibility. Instead, he insisted
 28

1 he had acted appropriately and maintained that he would not change his course of conduct in any
2 way if faced with similar circumstances in the future. Plaintiff's refusal to consider alternative
3 courses of conduct, which would have avoided the passenger injuries, raised doubts that Plaintiff
4 would follow aircraft checklists and utilize all available resources when dealing with unexpected
5 circumstances in the future. As a result, Defendant Allegiant concluded that Plaintiff had not only
6 performed poorly, but posed a safety risk going forward. Thereafter, his employment was
7 terminated on July 23, 2015.

8 **II. PROCEDURAL HISTORY AND THE INSTANT MOTION**

9 On November 10, 2015, Plaintiff filed a Verified Complaint against Defendants in the
10 Eighth Judicial District Court, Clark County, Nevada, generally alleging claims for wrongful
11 termination in violation of state law. On December 7, 2015, Defendants removed the case to this
12 Court. (ECF No. 4). In response, Plaintiff filed a Motion to Remand to State Court on December
13 11, 2015. (ECF No. 11). Subsequently, Defendants filed a Motion to Dismiss on December 16,
14 2015 attacking the substantive allegations of the Complaint as well as the joinder of Defendant
15 Allegiant Travel Co. (ECF No. 14). Both Motions have been fully briefed and are pending before
16 this Court. On February 5, 2016, this Court, *sua sponte*, entered an Order regarding the
17 scheduling of discovery after the parties failed to file a stipulated discovery plan and scheduling
18 order. (ECF No. 21). The Parties participated in an Early Neutral Evaluation on February 25,
19 2016, but were unable to arrive at settlement. Thereafter, the Parties began actively engaging in
20 discovery.

21 On February 26th, Defendants served Plaintiff with written discovery including
22 Interrogatories and Requests for Production of Documents. At the same time, Defendants
23 requested available dates from Plaintiff's Counsel regarding Plaintiff's availability for deposition.
24 Counsel did not provide the dates until over a month later on April 1st. Pursuant to the information
25 received from Counsel and the Parties good faith efforts to cooperate in scheduling depositions in
26 this matter, Defendants set Plaintiff's deposition for May 11th. The Parties have also worked
27 together to schedule the depositions of various current-and-former employees of Defendants
28 which are proceeding in the coming days. Indeed, cooperation on scheduling matters has been

1 crucial given that several of the parties' attorneys work in different locations across the United
2 States.

3 On May 5th, Plaintiff disclosed three expert witnesses: (a) John F. Burke, Jr., Ph.D., Burke,
4 Rosen & Associates, a forensic economist; (b) Cpt. Roy B. Liggett, Jr. (ret), Aviation Operations
5 Solutions, LLC, an aviation operations expert; and (c) John Goglia, an aviation operations and
6 safety expert. In conjunction therewith, Doug Desjardins, Plaintiff's Counsel, demanded that
7 Defendants' rebuttal experts be disclosed that same day. See Email from Mr. Desjardins, p. 2,
8 attached hereto as **Exhibit B**. However, having just received the opinions of Plaintiff's initial
9 experts, Defendants had no opportunity to retain rebuttal experts much less have any such experts
10 author reports in a matter of hours.

11 The Parties have also engaged in multiple communications and conferences regarding each
12 Party's discovery responses and disclosures. Essentially, Plaintiff and Defendants each believe
13 that the other's responses and disclosures are deficient in certain respects and require
14 supplementation. Defendants also maintain that Plaintiff has failed to produce all responsive
15 documents in his possession. From Defendants' perspective, the deficiencies have hampered
16 Defendants' analysis of Plaintiff's claims and the opinions of his experts, and preparation for
17 deposing and cross-examining the same. Nonetheless, the Parties are actively engaged in
18 attempting to resolve these issues without court intervention and Defendants are hopeful that a
19 resolution will soon be reached.

20 Collectively, these issues and the complex, high-profile nature of this case, have
21 constrained Defendants' ability to complete discovery in the roughly four months currently
22 allowed in the Scheduling Order. As a result, Defendants are requesting that the deadline to make
23 rebuttal expert disclosures be extended forty-five (45) days to June 17, 2016, and that the close of
24 discovery be extended one hundred and twenty (120) days to November 3, 2016. Therefore, for
25 the aforementioned reasons and those discussed below, Defendants respectfully request that the
26 Court find good cause exists for extending the discovery deadlines as requested and grant the
27 instant Motion.

28 ///

III. LEGAL ARGUMENT

A. Standard for Extending Discovery.

Pursuant to Fed.R.Civ.P. 16(b)(3), a case schedule may be modified only for good cause and only with the judge's consent. Fed.R.Civ.P. 16(b). In Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir.1992), the court explained,

... Rule 16(b)'s "good cause" standard primarily concerns the diligence of the party seeking the amendment. The district court may modify the pretrial schedule "if it cannot reasonably be met despite the diligence of the party seeking the extension." Fed.R.Civ.P. 16 advisory committee's notes (1983 amendment) ... [T]he focus of the inquiry is upon the moving party's reasons for seeking modification.... If that party was not diligent, the inquiry should end.

Parties must "diligently attempt to adhere to that schedule throughout the subsequent course of the litigation." Jackson v. Laureate, Inc., 186 F.R.D. 605, 607 (E.D.Cal.1999); see Marcum v. Zimmer, 163 F.R.D. 250, 254 (S.D.W.Va.1995). In part, the "good cause" standard requires the parties to demonstrate that "noncompliance with a Rule 16 deadline occurred or will occur, notwithstanding her diligent efforts to comply" Jackson, 186 F.R.D. at 608.

B. Requirements pursuant to LR 26-4.

1. *Discovery Completed to Date*

The Parties have completed the following discovery to date:

Date	Party	Item
02/22/2016	Plaintiff	Initial Disclosures
02/26/2016	Defendants	First Set of Interrogatories to Plaintiff
02/26/2016	Defendants	First Set of Requests for Production of Documents to Plaintiff
03/02/2016	Plaintiff	First Set of Requests for Production of Documents to Defendants
03/02/2016	Plaintiff	First Set of Interrogatories to Defendants
03/03/2016	Defendants	Initial Disclosures
03/15/2016	Plaintiff	First Supplemental Disclosures

Date	Party	Item
03/28/2016	Plaintiff	Answers to Defendants' First Set of Interrogatories
03/28/2016	Plaintiff	Responses to Defendants' First Set of Requests for Production of Documents
04/11/2016	Defendants	First Supplemental Disclosures (ALGNT-0001 – ALGNT-0248)
04/15/2016	Defendants	Second Supplemental Disclosures (ALGNT-0249 – ALGNT-1712)
04/15/2016	Defendants	Answers to Plaintiff's First Set of Interrogatories
04/15/2016	Defendants	Responses to Plaintiff's First Set of Requests for Production of Documents
04/20/2016	Defendants	Third Supplemental Disclosures (ALGNT-1713 – ALGNT-2127)
04/26/2016	Defendants	Fourth Supplemental Disclosures (ALGNT-2128 – ALGNT-2857)
05/02/2016	Defendants	Second Set of Interrogatories to Plaintiff
05/02/2016	Defendants	Second Set of Requests for Production of Documents to Plaintiff
05/05/2016	Plaintiff	Initial Expert Disclosures
05/06/2016	Defendants	Fifth Supplemental Disclosures (ALGNT-2858 – ALGNT-3131)

2. Discovery that Remains to be Completed

The Parties are in the process of meeting and conferring regarding the sufficiency of each Party's disclosures and responses to written discovery. In addition, the Parties have noticed the following depositions:

Deposition Date	Deponent
05/11/2016	Jason Kinzer, Plaintiff

Deposition Date	Deponent
05/12/2016	Mark Grock, System Chief Pilot
05/12/2016	Randy Freedman
05/13/2016	Robert Lieser, Director, Flight Standards & Training
05/13/2016	Michael Wuerger, Director, Flight Safety, Government Affairs & Quality Assurance
05/13/2016	Steve Harfst, Former Chief Operations Officer
05/13/2016	Greg Baden, Former Vice President, Flight Operations

Depending on the Plaintiff's deposition testimony, Defendants also expect to notice additional non-party depositions as Plaintiff has identified 16 witnesses as having knowledge concerning this case. Further, the Parties initial and rebuttal experts will be deposed as well as several of Plaintiff's medical providers who reside in Florida.

3. Reasons why Discovery was not Timely Completed

As noted above, the Scheduling Order (ECF No. 21) appears to set deadlines for initial and rebuttal expert disclosures, and close of discovery that are in contravention of LR 26-1. Specifically, the Scheduling Order requires initial *and* rebuttal expert disclosures to be made on May 5, 2016 with discovery closing some thirty (30) days later on June 6, 2016. LR 26-1 modifies the deadlines of expert disclosure in Fed.R.Civ.P. 26(a)(2)(D) such that initial expert disclosures must be made sixty (60) days before the close of discovery and rebuttal expert disclosures thirty (30) after initial expert disclosures. While Defendants do not presume to tell the Court what it did or did not intend, this appears to be a simple case of scrivener's error.

The purpose of rebuttal testimony is to "explain, repel, counteract or disprove evidence of an adverse party" United States v. Lamoreaux, 422 F.3d 750, 755 (8th Cir. 2005) (internal quotations omitted). In other words, "[t]he proper function of rebuttal evidence is to contradict,

1 impeach or diffuse the impact of evidence offered by an adverse party.” Peals v. Terre Haute
 2 Police Department, 535 F.3d 621, 630 (7th Cir. 2008). A rebuttal expert witness may only testify
 3 after the opposing party’s initial expert witness testifies. Linder v. MeadowGold Dairies, Inc., 249
 4 F.R.D. 625, 636 (D. Haw. 2008). The Eighth Circuit has recognized that “the fact that testimony
 5 would have been more proper for the case-in-chief does not preclude the testimony if it is proper
 6 both in the case-in-chief and in rebuttal.” United States v. Luschen, 614 F.2d 1164, 1170 (8th Cir.
 7 1980).

8 A party rarely knows before the opposing party makes his or her initial expert disclosures,
 9 whether a rebuttal expert opinion will be needed for certain—hence why Fed.R.Civ.P. 26
 10 contemplates that rebuttal disclosures are made after the initial disclosures. See Fed.R.Civ.P. 26,
 11 advisory committee’s notes (1970 amendment) (recognizing that “[t]he lawyer even with the help
 12 of his own experts frequently cannot anticipate the particular approach his adversary’s expert will
 13 take or the data on which he will base his judgment on the stand.)). Thus, absent the gift of divine
 14 foresight, attempting to craft and disclose a rebuttal opinion contemporaneously with the
 15 opposing party’s initial expert disclosures would be little more than speculation and guesswork.

16 Next, completion of discovery has been hampered due to the delay in taking Plaintiff’s
 17 deposition. Due the complexity of this case and Plaintiff’s claims, it is necessary for his
 18 deposition to occur first, prior to any other party or witness. On February 26, 2016, Counsel for
 19 Defendants requested Plaintiff’s availability for deposition from Plaintiff’s Counsel. Counsel did
 20 not provide available dates until April 1, 2016 after additional prompting from Defendants’
 21 Counsel. Thereafter, Plaintiff’s deposition was scheduled for May 11th.

22 As the Court is aware, the Federal Rules of Civil Procedure were amended on December
 23 1, 2015. One of the most noteworthy aspects of the Amendments was the revision of Rule 1
 24 which now reads as follows (the amended portion is italicized):

25 These rules govern the procedure in all civil actions and proceedings in the
 26 United States district courts, except as stated in Rule 81. They should be
 27 construed, administered, *and employed by the court and the parties* to secure
 28 the just, speedy, and inexpensive determination of every action and proceeding.

The Advisory Committee Notes thereto explain that “just as the court should construe and

1 administer these rules to secure the just, speedy, and inexpensive determination of every action,
2 so the parties share the responsibility to employ the rules in the same way.” Thus, Fed.R.Civ.P. 1
3 is intended to “discourage over-use, misuse, and abuse of procedural tools that increase cost and
4 result in delay. Effective advocacy is consistent with—and indeed depends upon—cooperative
5 and proportional use of procedure.” In the 2015 Year-end Report on the Federal Judiciary,
6 Honorable John G. Roberts, Jr., Chief Justice of the Supreme Court of the United States,
7 emphasized that the changes to Rule 1 “highlights the point that lawyers—though representing
8 adverse parties—have an affirmative duty to work together, and with the court, to achieve prompt
9 and efficient resolutions of disputes.” See pp. 5-6.

10 Plaintiff’s deposition testimony will be one of the most critical pieces of evidence in this
11 case. Indeed, his testimony will affect the entire progression and direction of the case. Defendants
12 have cooperated with Plaintiff, in accordance with Fed.R.Civ.P. 1, to schedule the depositions of
13 Plaintiff and other witnesses. While working in good faith with Plaintiff on the aforementioned,
14 Defendants have diligently conducted discovery while being mindful that Plaintiff’s deposition
15 testimony may reveal additional issues requiring discovery, or render prior discovery irrelevant.
16 Of course, if such course corrections are necessary it will cause the parties to expend additional
17 time and resources, and incur additional costs.

18 Plaintiff’s recent disclosure of his initial experts is also grounds to extend discovery given
19 the complexity of the opinions at issue. Defendants are currently in the process of identifying and
20 retaining appropriate rebuttal experts. However, Defendants expect to have to retain experts
21 located outside of Nevada given that expertise regarding aviation safety and operation is needed.

22 Finally, an extension of the discovery deadlines is necessary due to the obligations of
23 Defendants’ counsel and the impending introduction of two new attorneys to the defense team.
24 Erik M. Dullea, Esq., Counsel for Defendants, will be in depositions on another matter from June
25 1st through the 4th; on active duty military service outside the continental U.S. from June 6th to the
26 10th; and participating in an administrative hearing from June 13th through the 15th. Further, the
27 undersigned Counsel, will be out of the office on a pre-planned vacation from July 2nd to July
28 18th. Additionally, Joshua A. Sliker, Esq., one of the new attorneys joining the defense team, will

be out of the office from July 1st to July 11th.

Based on the foregoing, good cause exists to extend the discovery deadlines in this matter.

4. *Proposed Schedule for Completing Discovery*

Defendants propose extending the discovery deadlines as follows:

Discovery Action	Current Date	Proposed Date
Add Parties / Amend Pleadings	March 7, 2016	No Change
Initial Expert Disclosures	May 5, 2016	No Change
Rebuttal Expert Disclosures	May 5, 2016	June 17, 2016
Interim Status Report	April 5, 2016	August 5, 2016
Close of Discovery	June 6, 2016	October 4, 2016
Dispositive Motions	July 5, 2016	November 3, 2016
Pre-Trial Order	August 3, 2016 In the event dispositive motions are filed, the date for filing the Joint Pretrial Order shall be suspended until thirty (30) days after decision on the dispositive motions or by further order of the Court.	If no dispositive motions are filed, the Joint Pretrial Order shall be filed thirty (30) days after the date set for the filing of dispositive motions. Therefore, the Joint Pretrial Order shall be filed no later than December 5, 2016. In the event dispositive motions are filed, the date for filing the Joint Pretrial Order shall be suspended until thirty (30) days after decision on the dispositive motions or by further order of the Court.

///

///

///

///

///

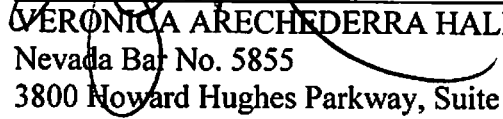
///

V. CONCLUSION

For each and all of the reasons stated above, Defendant respectfully requests the Court grant Defendants' Motion to Extend Discovery.

Dated this 12 day of May, 2016.

JACKSON LEWIS P.C.


VERONICA ARECHEDERRA HALL, ESQ.
Nevada Bar No. 5855
3800 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169

ERIK M. DULLEA, ESQ.
Admitted Pro Hac Vice
950 17th Street, Suite 2600
Denver, Colorado 80201
Attorneys for Defendants

CERTIFICATE OF SERVICE

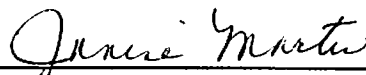
I hereby certify that I am an employee of Jackson Lewis P.C. and that on this 12 day of May, 2016, I caused to be served a true and correct copy of the above and foregoing DEFENDANTS' MOTION TO EXTEND DISCOVERY via ECF filing, properly addressed to the following:

Michael A. Urban
Sean W. McDonald
The Urban Law Firm
4270 South Decatur Boulevard, Suite A-9
Las Vegas, Nevada 89103

Michael Pangia
Pangia Law Group
1717 N Street NW
Washington, DC 20036

Joseph Anderson
1717 N Street NW
Washington, DC 20036

Attorneys for Plaintiff



Employee of Jackson Lewis, P.C.

4852-5610-3985, v. 2

EXHIBIT A

EXHIBIT A

EXHIBIT A

Veronica Arechederra Hall, Bar No. 5855
veronica.hall@jacksonlewis.com
JACKSON LEWIS P.C.
3800 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
Tel: (702) 921-2460
Fax: (702) 921-2461

Erik M. Dullea (*admitted pro hac vice*)
erik.dullea@jacksonlewis.com
JACKSON LEWIS P.C.
950 17th Street, Suite 2600
Denver, Colorado 80802
Tel: (303) 892-0404
Fax: (303) 892-5575

Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Case No. 2:15-cv-2306-JAD-PAL

JASON KINZER, an individual,

Plaintiff,

v.

ALLEGIANT AIR, LLC, a Nevada limited
liability company; and ALLEGIANT TRAVEL
CO. a Nevada corporation,

Defendants.

DECLARATION OF VERONICA ARCHEDERRA HALL, ESQ.
IN SUPPORT OF DEFENDANTS' MOTION TO EXTEND DISCOVERY (FIRST
REQUEST) PURSUANT TO LR 26-7(c)

VERONICA ARECHEDERRA HALL, first being duly sworn, deposes and says:

1. I am an attorney duly licensed to practice law in the State of Nevada, and am counsel of record for Defendants Allegiant Air, LLC and Allegiant Travel Co. in the above-captioned matter.

2. I have personal knowledge of the matters stated herein and, if called to testify, I could and would testify thereto.

3. On or about April 18, 2016, I spoke with Joseph Anderson, Esq., Plaintiff's

1 Counsel, by telephone regarding several issues including extending deadlines for rebuttal expert
2 disclosures and close of discovery.

3 4. I advised Mr. Anderson that the extension was necessary because of (a) an error in
4 the Scheduling Order (Doc. #21) which set the rebuttal disclosure deadline for the same date as
5 initial expert disclosures; (b) the number of witnesses and documents disclosed by the parties to
6 date; (c) the location of the attorneys and witnesses throughout the United States; and (d) the
7 number of depositions to be taken including several outside Nevada.

8 5. Mr. Anderson agreed to review and consider a proposed stipulation and order
9 which I later sent on April 25, 2016. Therein, I proposed extending the expert rebuttal deadline by
10 forty-five (45) days and the close of discovery by one hundred twenty (120) days.

11 6. On April 27, 2016, Mr. Anderson replied by email that the proposed extension was
12 too long and counter-proposed extending the initial and rebuttal expert disclosure deadlines and
13 close of discovery by thirty (30) days each.

14 7. That same day, I advised Mr. Anderson by email that his counter-proposal was not
15 a sufficient extension of time. I requested to schedule a telephonic meet-and-confer conference to
16 discuss the discovery extension, and deficiencies with Plaintiff's FRCP 26 disclosures and
17 responses to Defendants' First Set of Requests for Production.

18 8. On or about May 2, 2016, a telephonic meet-and-confer was held. My co-counsel,
19 Erik M. Dullea, Esq., and I participated on behalf of Defendants. Michael J. Pangia, Esq. and Mr.
20 Anderson participated on behalf of Plaintiff.

21 9. After thoroughly discussing the proposed discovery extension, the parties were
22 unable to reach agreement. Instead, Mr. Anderson suggested that further consideration of the
23 matter be stayed until the depositions of Plaintiff and various employees of Defendant Allegiant
24 Air, LLC are completed.

25 10. However, waiting until the aforementioned depositions are complete will prejudice
26 Defendants as there will be insufficient time for Defendants to prepare and file their Motion to
27 Extend Discovery by the twenty-one (21) day good cause deadline.
28



VERONICA ARECHEDERRA HALL, ESQ.

EXHIBIT B

EXHIBIT B

EXHIBIT B

Hall, Veronica Arechederra (Las Vegas)

From: Mike Pangia <mpangia@pangialaw.com>
Sent: Friday, May 06, 2016 1:13 PM
To: Hall, Veronica Arechederra (Las Vegas); Douglas Desjardins
Cc: Sean McDonald; Joseph Anderson; Edita Samson; Dullea, Erik M. (Denver)
Subject: RE: Kinzer Expert Reports
Attachments: Kinzer 0067 - 0167 AA Evacs etc.pdf

Veronica

Please be advised that we checked again to confirm what I told you over the phone last week. The only Allegiant materials that Mr. Kinzer has are the ones Allegiant authored and gave to its pilots and that he has no notes on them or extra materials not generated and provided to him by Allegiant. He believes he has these items only electronically and will bring with him an electronic copy of everything Allegiant gave him. We understand that those items are the Allegiant QRH, the Allegiant manual for the aircraft and the Allegiant General Operating Handbook. Now, if Allegiant was required or did provide him with something else, please let us know what that could possibly be and we can make a further inquiry. If you do not believe we made sufficient effort, you can ask Mr. Kinzer under oath next week.

We understand and appreciate the fact that you want full discovery of whatever Allegiant gave to Mr. Kinzer that still may be in his possession, and we have done everything to comply. Your inquiry does raise a question, however, about Allegiant's inadequate responses to plaintiff's discovery. We have raised objection to slow and inadequate responses, but were nevertheless able to provide our expert reports in a timely fashion in full compliance with the Court's Order. If Allegiant was contemplating naming an expert in this case, we cannot understand how Allegiant was rendered unable to meet the deadline by the lack of Allegiant materials given to pilots.

Concerning the experts, I have confirmed again that we already provided you with their entire files on this case. However, we did just send to them the attached additional information. Bates 67-167. Of course, we may be providing further information as received from time to time and we will certainly provide you with same so that if and when you depose them or cross-examine them at the trial, you can be confident that you have at hand a complete file. I look forward to seeing you next week. Mike

-----Original Message-----

From: Hall, Veronica Arechederra (Las Vegas) [mailto:Veronica.Hall@jacksonlewis.com]
Sent: Thursday, May 05, 2016 9:33 PM
To: Douglas Desjardins
Cc: Sean McDonald; Mike Pangia; Joseph Anderson; Edita Samson; Dullea, Erik M. (Denver)
Subject: Re: Kinzer Expert Reports

Look forward to your confirmation.

Allegiant is entirely aware of the deadlines in the case.

As a reminder, Allegiant is still waiting for the production of Plaintiff's Allegiant materials in his possession, which was promised earlier this week. Of course this creates additional delay, and support for the need to extend discovery and continue plaintiff's deposition.

Sent from my iPhone. Please excuse any typographical errors.

Veronica Arechederra Hall

> On May 5, 2016, at 5:37 PM, Douglas Desjardins <dpd@pangialaw.com> wrote:

>

> Veronica,

>

> I believe we have produced the entirety of our expert files--but I will confirm with our experts tomorrow that they have no additional documents in their files.

>

> I would also note that the Court's scheduling Order (Doc. No. 21) is perfectly clear that rebuttal reports are due today. If you client is not producing rebuttal experts today, we will object and will move to exclude any reports produced outside of the Court's deadline.

>

> Doug

>

>

> Sent from my iPhone

>

>> On May 5, 2016, at 8:20 PM, Hall, Veronica Arechederra (Las Vegas) <Veronica.Hall@jacksonlewis.com> wrote:

>>

>> I am out of the office but Allegiant's discovery requests asked for the entirety of the experts file, which Mr. Pangia stated would be produced with the report. Please promptly produce the entire file so that we may send to Allegiant's rebuttal witnesses. Of course to the extent that full disclosure is delayed, we will request additional time to submit a rebuttal report.

>>

>> Sent from my iPhone. Please excuse any typographical errors.

>>

>> Veronica Arechederra Hall

>>

>> On May 5, 2016, at 4:37 PM, Douglas Desjardins <dpd@pangialaw.com<mailto:dpd@pangialaw.com>> wrote:

>>

>> Dear Veronica,

>>

>> Pursuant to the Court's scheduling Order (Doc. No.21) that requires all expert to be disclosed today, enclosed please find Plaintiff's expert reports. Specifically the initial and revised reports of Dr. Harvey Rosen, together with his testimony list and CV. John Goglia's report together with his testimony and CV, and Roy Liggett's report together with his CV-as he has not testified in the last four year there is no testimony list.

>>

>> Also per you informal request earlier this we are enclosing the letters conveying all of the initial information to the liability experts. As we sent our liability experts the entirety of your client's discovery we are not reproducing that. We have included the non-Allegiant materials as Kinzer 0036 - 0066.

>>

>> If Allegiant will be calling any experts, we expect to receive your client's 26(a)(2) disclosures later today.

>>

>> Please let me know if you have any questions or concerns.

>>

>> Sincerely,

>>

>> Doug

>>

>> <2016 02 18 Kinzer Economic Loss Report By Burke, Rosen.pdf>
>> <CurriculumVitaeRosen 2012.pdf>
>> <2016 04 28 Revised Kinzer Loss of Earning Capacity.pdf>
>> <TestListHSR_20131112140227.pdf>
>> <2016 05 05 Goglia Report.pdf>
>> <Goglia Fee and Testimony List.pdf>
>> <John Goglia CV 2016.pdf>
>> <2016 04 28 MJP to Ligget (intial docs).pdf>
>> <2016 05 04 Roy Liggett Expert Opinion.pdf>
>> <2016 04 28 MJP to Goglia (intial docs).pdf>
>> <2016 04 28 MJP to Ligget (intial docs).pdf> <Kinzer 0036 - 0066 Info
>> to Liability Experts.pdf>

>>

>>

>>

>> Representing management exclusively in workplace law and related
>> litigation

>>

>>

>> Confidentiality Note: This e-mail, and any attachment to it, contains privileged and confidential information intended only for the use of the individual(s) or entity named on the e-mail. If the reader of this e-mail is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that reading it is strictly prohibited. If you have received this e-mail in error, please immediately return it to the sender and delete it from your system. Thank you.

>